@#@#@#@#@#@#@

HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO:26228 of 2006

DATED: 05-03-2007

Between:
G.Prabhakar

..... PETITIONER

AND

Government of A.P., rep.by its Secretary, Home Department, Secretariat Buildings, Hyderabad and others

.....RESPONDENTS

@#@#@#@#@#@#@

ORDER: (per The Hon'ble Sri Justice B.Prakash Rao)

In this writ petition the petitioner who is the brother-in-law of the detenu seeks to issue habeas corpus directing the respondents herein to release Vemula Veera Swamy, S/o.Kanakababu, who is detained in the Central Jail, Rajahmundry.

Briefly stated the facts of the case are that the detenu is being sought to be termed as a goonda within the definition of

Section 29 of the A.P.Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the Act') and he was arrested on 23-11-2006, in terms of the detention order which has been passed on 22-11-2006 by the Collector, Machilipatnam. According to the respondents, the detenu is a habitual offender who is committing various offences under chapters XVI, XVII and XXII of IPC. Having regard to several crimes committed by him and as the same are registered against him, he has been detained.

The case of the petitioner, in short, is to the effect that even though the order was passed on 22-11-2006, he was arrested on 23-11-2006 and he was lodged in Central Jail, Rajahmundry, at which point of time he was furnished only the copies of the grounds of detention but not the material in support thereof. Subsequently, on 10-01-2007 the entire material on which the said detention order came to be passed was furnished and ultimately the Government issued GO dated 11-01-2007 confirming the order of detention. Therefore, non-furnishing of the material and the documents within the prescribed period i.e., within five days from the date of detention is illegal as per the mandatory provision contemplated under Section 8 (1) of the Act. Admittedly, the same having been furnished far beyond i.e., on 10-01-2007s is illegal.

Heard Sri T.Bali Reddy, learned Senior Counsel on behalf of

the petitioner and also the learned Advocate General appearing on behalf of the respondent.

There is no dispute in regard to the aforesaid chequered events leading to the detention order based upon various offences committed by the said detenu which have been referred in the grounds of detention which was served on 23-11-2006. When the said detenue was arrested, admittedly, in this case no material has been furnished but the same was furnished much latter i.e., on 10-01-2007. Therefore, it is a clear violation of mandatory provision as contemplated therein and therefore, the detention orders passed are illegal and accordingly liable to set aside.

The writ petition is accordingly allowed and the order of detention dated 22-11-2006 is set aside. The detenu *viz*., Vemula Veeraswamy, S/o.Kanakababu, shall be released forthwith, if not required in any other case. No order as to costs.

_____

B.PRAKASH RAO, J

_____

M.VENKATESWARA REDDY, J

05th March, 2007

SKM

HONOURABLE SRI JUSTICE B.PRAKASH RAO

AND

HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO:26228 of 2006

ADVANCE ORDER: (Per the Hon'ble Sri Justice B.Prakash Rao)

The writ petition is allowed. The impugned order of detention dated 22-11-2006 is quashed. The detenu *viz*., Vemula Veeraswamy, S/o.Kanakababu, aged 22 years, Lakshmanaraopuram, Machilipatnam Town, Krishna District, shall be released forthwith, if not required in any other case.

(Order follows……)

_____

B.PRAKASH RAO, J

_____

M.VENKATESWARA REDDY, J

05th March, 2007

Note:

Please send the bundle to the Court Masters Section immediately after dispatch of the advance order.

B/o.

SKM